

**SUMMONS • FOR CIVIL PENALTIES ONLY****SUMMONS NUMBER 220204HR****ENFORCEMENT AGENCY:** Department of Consumer and Worker Protection**AGENCY ADDRESS AND WEBSITE:** 42 Broadway, New York, NY 10004 • nyc.gov/dcwp

RESPONDENT:	Benjamin Lamb	DBA:	
MAILING ADDRESS:	71 Strawberry Hill Ave Apt. 615 Stamford, CT 06902-2710	LICENSE NO.:	1071492-DCA
		EXPIRATION DATE:	February 28, 2024
		PHONE:	(646) 498-0845

PLACE OF OCCURRENCE:
☒ Various, all within NYC
☐ Intersection
☐ Landmark

FIRST DATE OF OCCURRENCE: March 1, 2022
TIME OF INSPECTION: N/A

You must respond to this summons. For more information on how to respond, see the last page of the summons. Until further notice, hearings will be by phone. Contact the Office of Administrative Trials and Hearings at the email address below before the hearing date to schedule your telephone hearing. If you cannot participate in a telephone hearing, email Livehearings@oath.nyc.gov to request an in-person hearing.

You must respond to this Summons by appearing at the hearing (date and location below).

HEARING DATE: December 15, 2022, AT: 9:30 AM**HEARING LOCATION:** RemoteManhattan@oath.nyc.gov**PHONE:** (844) 628-4692**Refer to the Summons Number above on all communications.**

Warning: If you do not respond, the City of New York will decide the Summons against you and impose penalties. If you do not pay any imposed civil penalty, the City could deny an application for, suspend, terminate, or revoke any City license, permit, or registration that you have. The City may also enter a judgment against you in court.

Details of Violation(s)

	NUMBER OF VIOLATIONS ¹	MAXIMUM PENALTY PER VIOLATION AT HEARING	MAXIMUM PENALTY PER VIOLATION ON DEFAULT	RESTITUTION SOUGHT
1. Rules of the City of New York, Title 6, Section 2-233a(a)	2	\$750.00	\$1,000.00	n/a
2. Rules of the City of New York, Title 6, Section 2-233b(a)(2)(i)	1	\$750.00	\$1,000.00	n/a
3. Rules of the City of New York, Title 6, Section 2-234	1	\$750.00	\$1,000.00	n/a
4. Rules of the City of New York, Title 6, Section 2-235	1	\$750.00	\$1,000.00	n/a

SEE SUPPLEMENT FOR ADDITIONAL DETAILS OF VIOLATION(S).

NYC Charter Sections 1048 and 1049-a and the Rules of the City of New York authorize the NYC Office of Administrative Trials and Hearings (OATH) to hold hearings. **For hearing options, see the last page of this Summons.**

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In view of the alternative charges alleged in this Summons, the maximum number of sustainable violations at hearing is 4.

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SUPPLEMENT: DETAILS OF VIOLATION

FACTS STATED ON INFORMATION AND BELIEF:

1. Benjamin Lamb ("Respondent") is a process server individual ("PSI") licensed by the New York City Department of Consumer and Worker Protection ("DCWP" or the "Department").
2. On June 1, 2022, the Department served Respondent with a subpoena *duces tecum* (the "Subpoena").
3. The Subpoena required that Respondent produce to the Department various documents from the month of March 2022 (the "Relevant Period").
4. The Respondent produced documents in response to the Subpoena, including his "electronic record logbook" maintained via an electronic record-keeping system ("logbook") and affidavits of service filed in court related to services during the Relevant Period.
5. Respondent did not set forth in his logbook the nature of the papers served in his logbook entry for this service [line 97]:

Roto Rooter v. Gavin Adams, Index No. 6014133/2021 (Sup. Ct., Suffolk Co.): service on defendant Gavin Adams on March 22, 2022, at 2:55 pm (substitute service).

(According to the Respondent's affidavit of service, the nature of the papers served was "Subpoena Duce Tecum to Take Deposition of a Witness.")

6. According to Respondent's affidavit of service, on *March 23, 2022*, at 11:17 a.m., Respondent served the Summons and Verified Complaint in the case of *Jose Collado et al. v. Ramessi Aponte*, Index No. 802546/2022E (Sup. Ct., Bronx Co.) on the defendant (substitute service by delivery to one "██████████").
7. Respondent's logbook, which, on its face, appears kept in strict chronological date and time order, consistently states that Respondent made this delivery at the same date and time.
8. But Respondent's GPS logbook, also kept in strict chronological date and time order, inconsistently states that Respondent made this delivery on the day previous, on *March 22, 2022, at 11:20 a.m.*
9. The Department infers that Respondent incorrectly stated in his affidavit of service and logbook the date/time that he made this service delivery.
10. In the alternative, if Respondent's affidavit of service and logbook is accepted to be accurate as to the actual date/time of service, Respondent failed to use his GPS device to make an electronic record of the GPS location and time of the effected service immediately after effecting service.
11. Respondent did not include his license number on various affidavits signed by him, including, but not limited to:

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- A. *Emmanuel E. Mejia Rojas v. Elhadji Gaye et al.*, Index No. 802691/2022E (Supreme Ct., Bronx Co.): service of the summons and verified complaint on [REDACTED] on March 10, 2022.
- B. *Jeremy Blandino v. Richard Saldana Gonzalez et al.*, Index No. 159845/2021 (Sup. Ct., N.Y. Co.): service of the summons and verified complaint and related papers on defendant [REDACTED] (substitute service) on March 14, 2022.
- C. *Anna Ben Yishai v. Yechiel Ben Yishai*, Index No. 711005/2020 (Supreme Ct., Queens Co.); service of order to show cause and related papers on plaintiff Anna Ben-Yishai (personal delivery) on March 14, 2022.

APPLICABLE LAW (IN EFFECT AT THE TIME OF VIOLATIONS);

- A. Under 6 RCNY § 2-233a(a)(2) and (b)(3)(xii), for a licensed individual process server who maintains the required “electronic records” via the specified electronic record-keeping system, the records must contain “whether service was delivered, as indicated by a Y or N.”
- B. Under 6 RCNY § 2-233a(a)(2) and (b)(3)(v) and (vi), for a licensed individual process server who maintains the required “electronic records” via the specified electronic record-keeping system, the records must contain “the date that service was effected, which shall be entered as MM/DD/YYYY” and the time service was effected, which shall be entered as military time.”
- C. Under 6 RCNY § 2-233b(a)(2)(i), “[o]n every occasion that a process server attempts or effects service of process, the process server must ensure that the mobile device makes an electronic record of the GPS location, time and date of the attempted or effected service immediately after attempting or effecting service.”
- D. Under 6 RCNY § 2-234, a licensed process server must “at all times strictly and promptly comply to all laws, rules, regulations, and requirements of the federal, state and municipal authorities relating to the conduct of licensees and the service of process in the State of New York and the preparation, notarization and filing of affidavits of service and other documents....” Under New York law, a process server may not make a false statement in an affidavit of service.
- E. Under 6 RCNY § 2-235, a license process server must “include his/her license number on all affidavits of service signed by him/her.”

VIOLATIONS CHARGED

- 1. As set forth in paragraph 5 of the “Facts” section, Respondent violated 6 RCNY § 2-233a(a) by failing in his logbook to indicate the nature of the papers served (one count).
- 2. As set forth in paragraph 6-9 of the “Facts” section, Respondent violated 6 RCNY § 2-233a(a) by failing in his logbook to indicate the correct date and time of service (one count).

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3. As set forth in paragraphs 6-9 of the "Facts" section, Respondent violated 6 RCNY § 2-234 by making a false statement in his affidavit of service (one count).
4. Alternatively, as set forth in paragraphs 6-10 of the "Facts" section, Respondent violated 6 RCNY § 6 RCNY § 2-2-233b(a)(2)(i) by failing to make a GPS record of service immediately after effecting service (one count).
5. As set forth in paragraph 11 of the "Facts" section, Respondent violated 6 RCNY § 2-235 by not including his license number on his affidavits of service (one count).

RELIEF SOUGHT

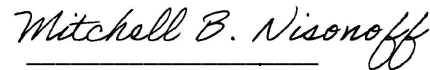
1. In light of the foregoing, the Department seeks the following relief:
 - a. A fine of \$750 per violation (at most four violations), the maximum available at hearing; or in the event of Respondent's default, a fine of \$1,000 per violation; and
2. Other relief deemed just and proper.

Dated: November 23, 2022

For:

VILDA VERA MAYUGA, COMMISSIONER

By:



Mitchell B. Nisonoff, Esq.


Assistant General Counsel

Attorney for Petitioner Department of
Consumer and Worker Protection

AFFIRMATION

I am an attorney admitted to practice before the Courts of this State and make this affirmation under the penalties of perjury. I have read the foregoing Summons and know the contents to be true from my own knowledge, except as to those matters stated on information and belief, and as to those matters I believe them to be true based upon my review of governmental records regularly kept by the New York City Department of Consumer and Worker Protection in the regular and ordinary course of its business.

Dated: November 23, 2022



Mitchell B. Nisonoff

SUMMONS NUMBER: 220204HR**HOW TO RESPOND TO THIS CIVIL SUMMONS**

The Department of Consumer and Worker Protection (DCWP) has charged you with the violation(s) listed on this summons. You must respond to this summons. You may send an authorized representative to respond for you. Free language help will be provided, if needed. **If you do not respond, you may automatically be found responsible, and you may owe larger penalties.** If the Environmental Control Board or the Office of Administrative Trials and Hearings orders you to pay a civil penalty, failure to pay that penalty in a timely manner could lead to the denial of an application for a license, permit, or registration, or to the suspension, termination, or revocation of a license, permit, or registration issued to you by a City agency. See the bottom of this page to learn more about penalties.

Option 1: DENY the charge(s)

If you deny the charge(s), you can give an explanation for why you think you are not responsible to a hearing officer, who will make a decision. If you are found responsible, you will still need to pay the penalty and may face higher penalties for future charges. To deny:

- Go to the Hearing Center identified on the first page of this summons at the date and time listed.
- Bring this summons and any evidence you may have that shows you are not responsible for the charge(s).
- Call 1-844-628-4692 if you have a disability and require a reasonable accommodation for the hearing.

Option 2: ADMIT to the charge(s)

If you settle the charges, you may no longer need to attend your hearing. By settling, you are admitting to the charge(s) and may face higher penalties for future charges. If you wish to discuss a settlement before the hearing date, you may contact Allison Johnson at 1-212-436-006 or by email at [REDACTED]

Unlicensed Activity Charges

If you are charged with unlicensed activity, you must deny the charge(s) or admit the charge(s) as described above. You should also:

- **Stop the unlicensed activity.**
- Go to 42 Broadway, 9th Floor, New York, NY 10004 and meet with Shannon Bermingham or send an email to [REDACTED].
- Apply for a license online at nyc.gov/BusinessToolbox or in person at the DCWP Licensing Center (42 Broadway, Lobby, New York, NY 10004) or the NYC Small Business Support Center (90-27 Sutphin Blvd., 4th Floor, Jamaica, NY 11435).
- **If your vehicle was seized, be sure to read the back of the Vehicle Seizure Form.**

Penalties

You have the right to be informed of the maximum penalty. If no maximum penalty is shown on this summons, ask in person at any OATH Hearing Center location below or call 1-844-628-4692. See below for additional information. Higher penalties may be imposed for each repeated violation up to the maximum penalty allowed by law or rule. Maximum penalties for the violation(s) in this summons may include a fine of as much as \$15,000 for each violation; revocation or suspension of your DCWP license; the sealing of your business premises; and/or the removal of your property. Copies of the laws and rules, which include the maximum penalties for specific violations, are available on the DCWP website: nyc.gov/consumers.

Unlicensed Activity Penalties: In most cases, the penalty for unlicensed activity is \$100 per violation per day. Pursuant to Section 1-19 of Title 6 of the Rules of the City of New York, you will be presumed to have engaged in the unlicensed activity every day from the "Start Date of Unlicensed Activity" through the Hearing Date.

DCWP encourages business owners to view the **Business Owner's Bill of Rights**, available at nyc.gov/bizrights

Questions?

أسئلة؟ 任何疑問 Kesyon?
 Вопросы? ¿Preguntas?
 질문 있으세요? কোনো প্রশ্ন আছেকি?
www.nyc.gov/oath
 844-OATH-NYC (844-628-4692)

OATH Hearing Center Locations

Manhattan: 66 John Street, 11th Floor, New York, NY 10038
Brooklyn: 9 Bond Street, 7th Floor, Brooklyn, NY 11201
Bronx: 260 East 161st Street, 6th Floor, Bronx, NY 10451
Queens: 144-06 94th Avenue, Jamaica, NY 11435
Staten Island: 350 St. Mark's Place, Staten Island, NY 10301